

## AMS/FAST CHANGE REQUEST (CR) COVERSHEET

**Change Request Number:** 23-55

**Date Received:** March 20, 2023

**Title:** Conflict of Interest Threshold

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**Initiator Name:** Stephen Mangan

**Initiator Organization Name / Routing Code:** Procurement Policy Branch, AAP-110

**Initiator Phone:** 405-954-4137

**ASAG Member Name:** Monica Rheinhardt

**ASAG Member Phone:** 202-267-1441

**Policy and Guidance:** (Please check only one box)

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|---|--|
| <input type="checkbox"/> Policy                 | <input type="checkbox"/> Procurement Tools and Resources     |
| <input checked="" type="checkbox"/> Guidance    | <input type="checkbox"/> Real Property Templates and Samples |
| <input type="checkbox"/> Procurement Samples    | <input type="checkbox"/> Procurement Clauses                 |
| <input type="checkbox"/> Procurement Templates  | <input type="checkbox"/> Real Property Clauses               |
| <input type="checkbox"/> Procurement Forms      | <input type="checkbox"/> Other Tools and Resources           |
| <input type="checkbox"/> Procurement Checklists |  |

### Summary of Change:

T3.1.5A1c.-Agreement Regarding Conflict-of-Interest threshold changed from \$150,000 to the new AMS risk threshold (\$250,000).

### Reason for Change:

The purpose of the change is to update AMS thresholds to be as flexible and current with government wide thresholds. The change also implements the AMS risk threshold (ART) to reduce the number of changes to AMS as it relates to thresholds by creating a standard term within AMS for acquisition related actions at the \$250,000 threshold. (i.e., AMS risk threshold).

**Development, Review, and Concurrence:** AAP

**Target Audience:** FAA Acquisition Workforce

**Briefing Planned:** Yes.

**ASAG Responsibilities:** Awareness. To be presented at the 3/20/23 ASAG Meeting.

**Section / Text Location:** Procurement Guidance-T3.1.5A1c.

**The redline version must be a comparison with the current published FAST version.**

☒ I confirm I used the latest published version to create this change / redline

**or**

☐ This is new content

**Links:** <https://fast.faa.gov/docs/procurementGuidance/guidanceT3.1.5.pdf>

**Attachments:** Redline and final documents.

**Other Files:** N/A.

**Redline(s):**

**Section Revised: T3.1.5 – Conflict of Interest**

**Procurement Guidance - (~~1/2023~~4/2023)**

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[T3.1.5 Conflict of Interest](#) Revised 8/2009

[A Conflict of Interest](#)

[1 Requirement for an Agreement Regarding Conflict-of-Interest](#) Revised ~~9/2021~~4/2023

[2 Processing a Conflict of Interest](#) Revised 1/2007

[3 Single-Source/Non-Competitive Acquisitions](#) Revised 9/2021

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[E Procurement Templates](#) Added 9/2021

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### **T3.1.5 Conflict of Interest** Revised 8/2009

#### **A Conflict of Interest**

##### **1 Requirement for an Agreement Regarding Conflict-of-Interest** Revised 9/20214/2023

a. Persons who have a real or apparent conflict of interest may be unable to render impartial, technically sound, and objective assistance, advice, or decisions. A procurement team member (program officials, contracting personnel, legal counsel, and others supporting a program), Office of Dispute Resolution for Acquisition (ODRA) member, or other Federal member who has a real or apparent conflict of interest, and who is a Federal employee, must withdraw from participation in the source selection process if law (18 U.S.C. § 208) or regulation (5 CFR Part 2635) requires it. Considerations of equity and integrity of the procurement process require that non-Government members of a procurement team be held to the same standards.

b. Unless a procurement team member receives prior authorization, a procurement team member who is a Government employee should not participate if the result is likely to affect the financial interests of the procurement team member's household, or the procurement team member knows a person with whom the procurement team member has a covered relationship as defined in 5 CFR § 2635.502, or the procurement team member represents a party, if a reasonable person with knowledge of the relevant facts would question the procurement team member's impartiality in the matter. The law does not require non-Government procurement team members be removed when they have an apparent conflict, but the FAA's public image, workforce morale, and considerations of equity dictate that they be treated exactly as our own employees are treated.

c. Each person involved in the source selection process, including the Source Selection Official (SSO), contracting officer, and legal counsel, who might have access to confidential or proprietary procurement information such as procurement strategy, offerors' proposals, results of evaluations, and the final selection actions, must sign and submit an Agreement Regarding Conflict-of-Interest (see AMS Procurement Templates) to the SSO or designee before any participation in the source selection process for all procurements with an estimated value ~~of \$150,000 or greater~~ equal to or exceeding the AMS risk threshold. This is to ensure that no conflict of interest exists. An Agreement Regarding Conflict-of-Interest should be completed before distribution of offerors' submissions for evaluation and at any time afterwards, if an individual's financial, business, or employment situation changes to create the potential for a conflict of interest. The Agreement Regarding Conflict-of-Interest must be completed by individual procurement team members for each procurement and retained in the pre-award file.

##### **2 Processing a Conflict of Interest** Revised 1/2007

If the SSO or designee becomes aware of a conflict of interest, the SSO should notify the procurement legal counsel immediately. Action should be taken to remove the party from further participation in the source selection activities until the conflict of interest is reviewed and legal advice obtained. A procurement team member must be excused or removed from participation in the source selection process should a conflict of interest exist, unless a waiver is granted. All conflict of interest cases must

be clearly documented. The procurement team members must update and resubmit any and all conflict of interest statements if an individual's financial, business, or employment relationship changes to the extent that a conflict of interest could exist.

### **3 Single-Source/Non-Competitive Acquisitions** Revised 9/2021

The requirements of this Section are also applicable to single-source and non-competitive acquisitions. For such acquisitions, the Contracting Officer will take all appropriate actions in coordination with the Service Organization. The Agreement Regarding Conflict-of-Interest will be incorporated into the Single Source Justification. Any person involved in the source selection process who is not a signatory on the Single Source Justification will complete a separate Agreement Regarding Conflict-of-Interest. The Contracting Officer may tailor the Agreement Regarding Conflict of Interest as appropriate.

### **B Clauses**

[view contract clauses](#)

### **C Procurement Forms** Added 9/2021

Document Name

### **D Procurement Samples** Added 9/2021

Document Name

### **E Procurement Templates** Added 9/2021

Document Name
Agreement Regarding Conflict of Interest

### **F Procurement Tools and Resources** Added 9/2021

